

**BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:)

DAVID ERIN BURNS, M.D.)

File No. 16-2005-164598

**Physician's and Surgeon's)
Certificate No. C50049)**

Respondent.)
_____)

DECISION

The attached Stipulated Surrender of License is hereby adopted as the Decision and Order of the Division of Medical Quality of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on November 4, 2005.

IT IS SO ORDERED October 28, 2005.

MEDICAL BOARD OF CALIFORNIA

By: _____

Steven Alexander, Chair

Panel A

Division of Medical Quality

1 BILL LOCKYER, Attorney General
of the State of California
2 JOSE R. GUERRERO
Supervising Deputy Attorney General
3 JANE ZACK SIMON, State Bar No. 116564
Deputy Attorney General
4 California Department of Justice
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-5544
6 Facsimile: (415) 703-5480

7 Attorneys for Complainant

8 **BEFORE THE**
9 **DIVISION OF MEDICAL QUALITY**
10 **MEDICAL BOARD OF CALIFORNIA**
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

12 **DAVID ERIN BURNS, M.D.**
13 902 Frostwood, Suite 307
Houston, TX 77024

Case No.16-2005-164598

14 **STIPULATED SURRENDER OF**
15 **LICENSE**

16 Physician and Surgeon's
Certificate No. C50049

17
18 Respondent.

19 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this
20 proceeding that the following matters are true:

21 1. David T. Thornton (Complainant) is the Executive Director of the Medical
22 Board of California, and maintains this action solely in his official capacity. Complainant is
23 represented in this matter by Bill Lockyer, Attorney General of the State of California, by Jane
24 Zack Simon, Deputy Attorney General.

25 2. David Erin Burns, M.D. (respondent) is representing himself in this
26 proceeding.

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1 3. Respondent has received, read and understands the Accusation which is
2 presently on file and pending in case number 16-2005-164598, a copy of which is attached as
3 Exhibit A.

4 4. Respondent has carefully read and understands the charges and allegations
5 in Accusation No. 16-2005-164598. Respondent also has carefully read and understands the
6 effects of this Stipulated Surrender of License.

7 5. Respondent is fully aware of his legal rights in this matter, including the
8 right to a hearing on the charges and allegations in the Accusation; the right to be represented by
9 counsel, at his own expense; the right to confront and cross-examine the witnesses against him;
10 the right to present evidence and to testify on his own behalf; the right to the issuance of
11 subpoenas to compel the attendance of witnesses and the production of documents; the right to
12 reconsideration and court review of an adverse decision; and all other rights accorded by the
13 California Administrative Procedure Act and other applicable laws.

14 6. Respondent voluntarily, knowingly, and intelligently waives and gives up
15 each and every right set forth above.

16 7. Respondent agrees that, based exclusively on the action taken by the Texas
17 State Board of Medical Examiners and not upon any acts or omissions which occurred in
18 California, cause exists to discipline his California physician and surgeon's certificate pursuant
19 to Business and Professions Code sections 141 and 2305. Respondent lives and practices in
20 Texas. He has no intention of practicing medicine in California in the future. He wishes to
21 surrender his California license.

22 8. Respondent understands that by signing this stipulation he is enabling the
23 Medical Board of California to issue its order accepting the surrender of license without further
24 process. He understands and agrees that Board staff and counsel for complainant may
25 communicate directly with the Board regarding this stipulation, without notice to or participation
26 by respondent. In the event that this stipulation is rejected for any reason by the Board, it will be
27 of no force or effect for either party. The Board will not be disqualified from further action in
28 this matter by virtue of its consideration of this stipulation.

1 9. Upon acceptance of this stipulation by the Board, respondent understands
2 that he will no longer be permitted to practice as a physician and surgeon in California, and also
3 agrees to surrender and cause to be delivered to the Board any license and wallet certificate in
4 his possession before the effective date of the decision.

5 10. The admissions made by respondent herein are only for the purposes of
6 this proceeding, or any other proceedings in which the Medical Board or other professional
7 licensing agency is involved, and shall not be admissible in any other criminal or civil
8 proceeding.

9 11. Respondent fully understands and agrees that if he ever files an
10 application for relicensure or reinstatement in the State of California, the Board shall treat it as a
11 petition for reinstatement, and respondent must comply with all laws, regulations and procedures
12 for reinstatement of a revoked license in effect at the time the petition is filed.

13 12. Respondent understands that he may not petition for reinstatement as a
14 physician and surgeon for a period of two (2) years from the effective date of his surrender.
15 Information gathered in connection with Accusation number 16-2005-164598 may be
16 considered by the Division of Medical Quality in determining whether or not to grant the
17 petition for reinstatement. For the purposes of the reinstatement hearing, the allegations
18 contained in Accusation number 16-2005-164598 shall be deemed to be admitted by respondent,
19 and respondent waives any and all defenses based on a claim of laches or the statute of
20 limitations.

21 13. The parties understand and agree that facsimile copies of this Stipulated
22 Surrender of License, including facsimile signatures thereto, shall have the same force and effect
23 as the originals.

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ACCEPTANCE

I have carefully read the above stipulation. I enter into it freely and voluntarily and with full knowledge of its force and effect, do hereby surrender my Physician and Surgeon's Certificate Number C50049 to the Division of Medical Quality, Medical Board of California, for its formal acceptance. By signing this stipulation to surrender my license, I recognize that upon its formal acceptance by the Board, I will lose all rights and privileges to practice as a physician and surgeon in the State of California and I also will cause to be delivered to the Board any license and wallet certificate in my possession before the effective date of the decision.

DATED: 10-4-05

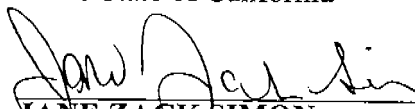

DAVID ERIN BURNS, M.D.
Respondent

ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Division of Medical Quality, Medical Board of California.

DATED: 10/12/05

BILL LOCKYER, Attorney General
of the State of California


JANE ZACK SIMON
Deputy Attorney General

Attorneys for Complainant

Exhibit A

1 BILL LOCKYER, Attorney General
of the State of California
2 JANE ZACK SIMON
Deputy Attorney General [SBN 116564]
3 455 Golden Gate Avenue, Suite 11000
San Francisco, California 94102
4 Telephone: (415) 703-5544
Facsimile: (415) 703-5480
5

6 Attorneys for Complainant

7
8 **BEFORE THE**
9 **DIVISION OF MEDICAL QUALITY**
10 **MEDICAL BOARD OF CALIFORNIA**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
12 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:)

12 **DAVID ERIN BURNS, M.D.,**)
902 Frostwood, #307)
13 Houston, TX 77024)

14 Physician and Surgeon's)
15 Certificate No. C50049)

16 Respondent.)
17)

Case No. 16-2005-164598

ACCUSATION

18
19
20 The Complainant alleges:

21 **PARTIES**

22 1. Complainant David T. Thornton is the Executive Director of the Medical
23 Board of California (hereinafter the "Board") and brings this accusation solely in his official
24 capacity.

25 2. On or about May 2, 1997, Physician and Surgeon's Certificate No. C50049
26 was issued by the Board to David Erin Burns, M.D. (hereinafter "respondent"). Respondent's
27 certificate is renewed and current with an expiration date of May 31, 2005.

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO May 17 20 05
BY Valerie Moore ANALYST

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3. This accusation is brought before the Division of Medical Quality of the

A. Section 2227 of the Code provides in part that the Board may revoke,

B. Section 125.3 of the Code provides, in part, that the Board may request the

C. Section 2305 of the Code provides, in part, that the revocation, suspension,

D. Section 141 of the Code

"(a) For any licensee holding a license issued by a board under the

"(b) Nothing in this section shall preclude a board from applying a

1 specific statutory provision in the licensing act administered by the board that provides
2 for discipline based upon a disciplinary action taken against the licensee by another state,
3 an agency of the federal government, or another country."

4 E. Welfare and Institutions Code section 14124.12 provides, in part, that a
5 physician whose license has been placed on probation by the Medical Board shall not be
6 reimbursed by Medi-Cal for "the type of surgical service or invasive procedure that gave
7 rise to the probation."

8 4. Respondent is subject to discipline within the meaning of section 141 and
9 is guilty of unprofessional conduct within the meaning of section 2305 as more particularly set
10 forth herein below.

11 **FIRST CAUSE FOR DISCIPLINE**

12 (Discipline, Restriction, or Limitation Imposed by Another State)

13 5. On or about February 4, 2005, the Texas State Board of Medical
14 Examiners issued an Agreed Order regarding respondent's license to practice medicine in Texas.
15 Under the terms of the Agreed Order, respondent's Texas license was restricted for three years,
16 subject to terms and conditions including a practice monitor, completion of course work in the
17 area of chronic pain management, maintenance of a prescription drug log and completion of the
18 SPEX examination. The Agreed Order resolved allegations that respondent, a rheumatologist,
19 repeatedly failed to adhere to the standard of practice with respect to his treatment of five of his
20 patients.

21 Attached hereto as Exhibit A is a true and correct copy of the Agreed Order issued
22 by the Texas State Board of Medical Examiners.

23 6. Respondent's conduct and the action of the Texas State Board of Medical
24 Examiners, as set forth in paragraph 5, above, constitute unprofessional conduct within the
25 meaning of section 2305 and conduct subject to discipline within the meaning of section 141(a).

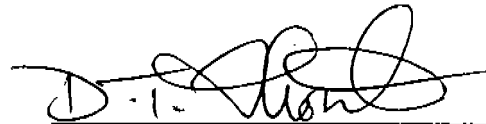
26 **PRAYER**

27 **WHEREFORE**, the complainant requests that a hearing be held on the matters

1 herein alleged, and that following the hearing, the Division issue a decision:

- 2 1. Revoking or suspending Physician and Surgeon's Certificate Number
- 3 C50049, heretofore issued to respondent David Erin Burns, M.D.;
- 4 2. Revoking, suspending or denying approval of the respondent's authority to
- 5 supervise physician assistants;
- 6 3. Ordering respondent to pay the Division the actual and reasonable costs of
- 7 the investigation and enforcement of this case and to pay the costs of probation monitoring upon
- 8 order of the Division; and
- 9 4. Taking such other and further action as the Division deems necessary and
- 10 proper.

11 DATED: May 17, 2005.

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16 **DAVID T. THORNTON**
17 Executive Director
18 Medical Board of California
19 Department of Consumer Affairs
20 State of California

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27
Complainant

Exhibit A

LICENSE NO. G-7498

IN THE MATTER OF
THE COMPLAINT AGAINST
DAVID ERIN BURNS, M.D.

BEFORE THE
TEXAS STATE BOARD OF
MEDICAL EXAMINERS

AGREED ORDER

On the 4 day of February, 2005, came on to be heard before the Texas State Board of Medical Examiners (the Board) duly in session, the matter of the license of David Erin Burns, M.D., Respondent.

On August 5, 2003, Respondent appeared in person, with counsel Michael Sharp and Tony Cobos, at an Informal Show Compliance Proceeding and Settlement Conference in response to a letter of invitation from Board Staff. Jean Deloach represented Board Staff. The Board's Representatives were Jose Manuel Benavides, M.D., a member of the Board, and David Baucom, a member of the District Review Committee.

Upon the recommendation of the Board's Representatives and with the consent of Respondent, the Board makes the following Findings of Fact and Conclusions of Law and enters this Agreed Order.

FINDINGS OF FACT

The Board finds that:

1. Respondent received all notice required by law. All jurisdictional requirements have been satisfied. Respondent waives any defect in notice and any further right to notice or hearing under TEX. OCC. CODE ANN. Title 3, Subtitle B (Vernon 2004) (the Act) or under the Board Rules.

2. Respondent currently holds Texas Medical License No. G-7498. Respondent was originally issued this license to practice medicine in Texas on February 24, 1985 and is also licensed in the State of California.

3. Respondent is primarily engaged in the practice of rheumatology and is Board Certified in this specialty by the American Board of Medical Specialties.

4. Respondent is 52 years old.
5. Respondent has not previously been the subject of disciplinary action by the Board.
6. The Board received information that Respondent violated certain provisions of the Act related to Respondent's quality of medical services provided.
7. The Board received information that Respondent may have violated the Act in providing medical services to the public. Upon the review of Respondent's medical records of five of his patients, a Board Consultant concluded that Respondent repeatedly failed to meet the standard of care, among violations of the Act, to wit:

a. Patient K.A.

On April 2, 1994, Respondent treated K.A. for various medical conditions that included joint pain, osteoarthritis of her knees, degenerative spinal disease, rheumatoid arthritis, hypothyroidism, B12 deficiency, elevated cholesterol, intermittent dyspepsia, diarrhea, abdominal pain, and asthma. In his care and treatment of patient K.A. between 1994 and 2002, Respondent failed to adequately document his rationale supporting a diagnosis of inflammatory arthritis or an adequate medical history and physical examination; failed to document the effectiveness of the prescribed medications; failed to document the need for controlled substances and dangerous drugs; and failed to adequately document the treatment of K.A.'s intractable pain, pursuant to 22 Tex. Admin. Code § 170.

b. Patient P.C.

On January 19, 1993, Respondent treated patient P.C. for fatigue and arthritis. P.C. had a history of lupus, bilateral breast implants, and temporomandibular joint, lumbar, and cervical spine surgeries. Respondent failed to adequately document P.C.'s history and physical examination, failed to adequately document the medical necessity of increasing the use of dangerous drugs or controlled substances, failed to meet the standard of care in treating P.C.'s lupus, and failed to adequately document P.C.'s pain management, pursuant to 22 Tex. Admin. Code § 170.

c. Patient A.D.

On December 20, 1996, Respondent treated patient A.D. for intermittent low back pain. Throughout treatment, he prescribed Darvocet-N100, Vicodin ES, Norco, Lortab, Dilaudid, Hydrocodone, Soma, and a duragesic patch. During this time, A.D. violated her drunk driving probation; tested positive for cocaine, which violated her court order substance treatment program; and required three hospitalizations when she overdosed on MS Contin, Dilaudid, and Soma, respectively. Respondent also treated A.D. for asthma, attention deficit disorder, panic attacks, anxiety, migraine headaches, and fatigue, and he prescribed Klonopin, Halcion, Xanax, Ritalin, BuSpar, Restoril, Provigil and Adderall. Respondent failed to meet the standard of care by prescribing dangerous drugs and controlled substances to a patient with a known history of alcohol and substance abuse; failed to adequately document the patient's history and physical examination; failed to adequately document the medical necessity of increasing the use of dangerous drugs and controlled substances; and failed to adequately document A.D.'s pain management, pursuant to 22 Tex. Admin. Code § 170.

d. Patient N.D.

On February 7, 1996, N.D. Respondent treated patient N.D. for diffuse myalgia and arthralgia. N.D.'s other medical conditions included hypertension, irritable bowel syndrome, depression, and she had had a breast implant-removal due to hardening in 1994. In the late 1980s and early 1990s, N.D. experienced problems with sleep, fatigue, memory, concentration, word-finding, numbness and tingling in her hands and feet, alopecia, hair loss, rash, and swallowing. From June 1996 to January 1999, Respondent changed N.D.'s medications numerous times, initiated treatments with intravenous gamma globulin (IVIG), and prescribed Oxycontin, Dilaudid, and Lortab. N.D. later overdosed by taking MS Contin, Desyrel and Serzone, all of which were prescribed by Respondent. In spite of this overdose, Respondent continued to prescribe MS Contin for N.D. because of concerns that her abdominal pain and nausea might be signs of narcotic withdrawal. Respondent failed to meet the standard of care by not properly treating and managing the patient's multiple disorders, including the patient's neuropathy; failed to adequately document the medical necessity of the use of dangerous drugs and controlled

substances; and failed to adequately document N.D.'s pain management, pursuant to 22 Tex. Admin. Code § 170.

e. Patient K.K.

On January 25, 1999, Respondent treated patient K.K. for cushingoid appearance, weight gain, vasculitis, and joint pain. Her history included peptic ulcer disease, TMJ syndrome, and post-operative deep venous thrombosis with a pulmonary embolism that required an umbrella in her vena cava. Respondent failed to meet the standard of care by not properly treating and managing K.K.'s medical conditions; failed to adequately document K.K.'s history and physical examination; failed to adequately document the medical necessity of increasing the use of dangerous drugs and controlled substances; and failed to adequately document K.K.'s pain management, pursuant to 22 Tex. Admin. Code § 170.

8. In response to the allegations, Respondent maintains that substantial portions of patients P.C.'s and K.A.'s records were lost by an outside copying company and were therefore were unavailable to the consultant; that these patients were extremely medically complex; that the tests conducted were reasonable under the circumstances; and that the medications were closely monitored through frequent office visits and lab tests. In addition, Respondent submitted supporting medical literature and opinion letters from other providers and from these patients in support of their care.

9. Respondent has cooperated in the investigation of the allegations related to this Agreed Order. Respondent's cooperation, through consent to this Agreed Order and pursuant to the provisions of Section 164.002 the Act, will save money and resources for the State of Texas. While not admitting to the findings of fact and conclusions of law set forth herein, and to avoid further investigation, hearings, and the expense and inconvenience of litigation, Respondent agrees to the entry of this Agreed Order and to comply with its terms and conditions.

CONCLUSIONS OF LAW

Based on the above Findings of Fact, the Board concludes that:

1. The Board has jurisdiction over the subject matter and Respondent pursuant to the Act.
2. Section 164.051(a)(6) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's failure to practice medicine in an acceptable professional manner consistent with public health and welfare.
3. Section 164.051(a)(3) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's violation of a rule adopted under this Act, to wit: 22 Tex. Admin. Code § 165, Adequate Medical Records.
4. Section 164.051(a)(3) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's violation of Board Rule 170, regarding the treatment of chronic pain.
5. Sections 164.052(a)(5) and 164.053(a)(5) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent prescribing or administering a drug or treatment that is nontherapeutic in nature or nontherapeutic in the manner the drug or treatment is administered or prescribed.
6. Section 164.001 of the Act authorizes the Board to impose a range of disciplinary actions against a person for violation of the Act or a Board rule. Such sanctions include: revocation, suspension, probation, public reprimand, limitation or restriction on practice, counseling or treatment, required educational or counseling programs, monitored practice, public service, and an administrative penalty.
7. Section 164.002(a) of the Act authorizes the Board to resolve and make a disposition of this matter through an Agreed Order.
8. Section 164.002(d) of the Act provides that this Agreed Order is a settlement agreement under the Texas Rules of Evidence for purposes of civil litigation.

ORDER

Based on the above findings of fact and conclusions of law, the Board ORDERS that Respondent's Texas license is hereby RESTRICTED under the following terms and conditions

for three years from the date of the signing of this Agreed Order by the presiding officer of the Board:

1. While under the terms of this Order, Respondent's practice shall be monitored by a physician (monitor), in accordance with §164.001(b)(7) of the Act. The Compliance Division of the Board shall designate the monitor and may change the monitor at any time for any reason. The monitor shall have expertise in a similar specialty area as Respondent. The Compliance Division shall provide a copy of this Order to the monitor, together with other information necessary to assist the monitor.

a. As requested by the Compliance Division, Respondent shall prepare and provide complete legible copies of selected patient medical and billing records ("selected records"). The Compliance Division shall select records for at least thirty patients seen by Respondent during each three-month period following the last day of the month of entry of this Order ("reporting period"). The Compliance Division may select records for more than thirty patients, up to ten percent of the patients seen during a reporting period.

b. The monitor shall perform the following duties:

- i) Personally review the selected records;
- ii) Prepare written reports documenting any perceived deficiencies and any recommendations to improve Respondent's practice of medicine or assist in the ongoing monitoring process. Reports shall be submitted as requested by the Compliance Division; and
- iii) Perform any other duty that the Compliance Division determines will assist the effective monitoring of Respondent's practice.

c. The Compliance Division shall provide to Respondent a copy of any deficiencies or recommendations submitted by the monitor. Respondent shall implement the recommendations as directed by the Compliance Division.

d. The monitor shall be the agent of the Board, but shall be compensated by the Respondent through the Board. Such compensation and any costs incurred by the monitor shall be paid by Respondent to the Board and remitted by the Board to the monitor. Respondent shall not charge the compensation and costs paid to the monitor to any patients.

2. Within 180 days from the entry of this Order, Respondent shall enroll in and successfully complete a course in the area of chronic pain management approved in writing in

advance by the Executive Director of the Board. To obtain approval for the course, Respondent shall submit in writing to the Director of Compliance for the Board information on the course, to include at least a reasonably detailed description of the course content and faculty, as well as the course location and dates of instruction. Respondent shall deliver documentation of attendance and successful completion of this requirement to the Director of Compliance for the Board on or before the expiration of the time limit set forth for completion of the course.

3. Respondent shall maintain a logbook of all prescriptions and refills written by Respondent for controlled substances or dangerous drugs with addictive potential or potential for abuse in chronological order by date issued. This logbook shall be made available for inspection by compliance officers, investigators, and other representatives of the Board during regular office hours, with or without notice to Respondent. For each prescription or refill, Respondent shall legibly record in the logbook

- a. the specific dosage and amount of medication authorized,
- b. the time and date of the prescription,
- c. the patient's name,
- d. the number of refills authorized, and
- e. the medical basis for the prescription and number of authorized refills. Respondent may prescribe or refill a prescription by telephone to a pharmacy only to the extent necessary to meet the patient's immediate needs and in no event shall Respondent prescribe or refill a prescription by telephone to a pharmacy for more than a three day supply.

4. Respondent shall refrain from the prescription or administration of any drug for any patient unless the drug is medically indicated and is prescribed in therapeutic doses. Respondent shall not prescribe, administer, dispense or authorize any drug with a potential for abuse to any person unless there is a legitimate medical and therapeutic need after the Respondent has taken an appropriate medical history and conducted an examination that is clinically adequate to determine a proper diagnosis and course of treatment. Respondent shall conduct adequate follow-up examinations on all patients to determine whether the course of treatment, including the prescribing of drugs, is appropriate for the medical condition of the patient and to determine if the drug regimen being prescribed or administered should be modified in any way.

5. Within one year following the entry of this Order, Respondent shall take and pass with a score of 75 or above the Special Purpose Examination (SPEX) as promulgated by the Federation of State Medical Boards of the United States. Respondent is allowed three attempts to successfully pass this examination.

Respondent's failure to take and pass the SPEX in three attempts within one year following the entry of this Order shall constitute a violation of this Agreed Order. After a committee of the Board or a panel of Board representatives (Board Representatives), has considered the information related to Respondent's violation of this provision and has determined that Respondent has not fulfilled the requirements of this provision, Respondent's medical license shall be immediately suspended pursuant to correspondence to Respondent from the Executive Director or Secretary-Treasurer of the Board indicating that Board Representatives have considered the information related to Respondent's violation of this provision and have determined that Respondent has not fulfilled the requirements of this provision. Although Respondent shall be invited to provide information or testimony to the Board Representatives, Respondent specifically waives any administrative due process under the Medical Practice Act, or the Administrative Procedure Act, for the Board Representatives to consider this information. **THIS SUSPENSION SHALL BE EFFECTIVE WITHOUT THE NEED FOR A HEARING AT THE STATE OFFICE OF ADMINISTRATIVE HEARINGS OR OTHER ADMINISTRATIVE DUE PROCESS UNDER THE MEDICAL PRACTICE ACT OR THE ADMINISTRATIVE PROCEDURE ACT, AND RESPONDENT SPECIFICALLY WAIVES ANY SUCH HEARING OR DUE PROCESS AND ALL RIGHTS OF APPEAL.** Respondent shall be notified of any suspension by certified mail, return receipt requested to Respondent's last known address on file with the Board. If Respondent's license is suspended on such a basis, the suspension shall remain in effect until such time as Respondent takes and passes the SPEX and subsequently appears before the Board in person and provides sufficient evidence which, in the discretion of the Board, is adequate to show that Respondent possesses the skills and knowledge to safely practice in Texas and is otherwise physically and mentally competent to resume the practice in this state.

6. Respondent shall attend at least six hours per year of continuing medical education (CME) approved for Category I credits by the American Medical Association. Upon request, Respondent shall submit to the Board proof of CME attendance for any requested period. The

required hours shall in the area of ethics. A copy of an attendance certificate or a detailed report that can be readily verified by the Board shall satisfy this requirement.

7. The time period of this Order shall be tolled if (a) Respondent subsequently resides or practices outside the State of Texas, (b) Respondent's license is subsequently cancelled for nonpayment of licensure fees, or (c) this Order is stayed or enjoined by Court Order. If Respondent leaves Texas to live or practice elsewhere, Respondent shall immediately notify the Board in writing of the date of Respondent's departure from and subsequent return to Texas. When the period of tolling ends, Respondent shall be required to comply with the terms of this Order for the period of time remaining on the Order. Respondent shall pay all fees for reinstatement or renewal of a license covering the period of tolling.

8. Respondent shall comply with all the provisions of the Act and other statutes regulating the Respondent's practice.

9. Respondent shall fully cooperate with the Board and the Board staff, including Board attorneys, investigators, compliance officers, consultants, and other employees or agents of the Board in any way involved in investigation, review, or monitoring associated with Respondent's compliance with this Order. Failure to fully cooperate shall constitute a violation of this order and a basis for disciplinary action against Respondent pursuant to the Act.

10. Respondent shall inform the Board in writing of any change of Respondent's mailing or practice address within ten days of the address change. This information shall be submitted to the Permits Department and the Director of Compliance for the Board. Failure to provide such information in a timely manner shall constitute a basis for disciplinary action by the Board against Respondent pursuant to the Act.

11. Any violation of the terms, conditions, or requirements of this Order by Respondent shall constitute unprofessional conduct likely to deceive or defraud the public, and to injure the public, and shall constitute a basis for disciplinary action by the Board against Respondent pursuant to the Act. Respondent agrees that ten days notice of a Probationer Show Compliance Proceeding to address any allegation of non-compliance of this Agreed Order is adequate and reasonable notice prior to the initiation of formal disciplinary action. Respondent waives all notice requirements under Section 164.003 of the Medical Practice Act related to informal proceedings, and Section 2001.054(c) of the Administrative Procedure Act.

1/20/05

12. The above-referenced conditions shall continue in full force and effect without opportunity for amendment, except for clear error in drafting, for 12 months following entry of this Order. If, after the passage of the 12-month period, Respondent wishes to seek amendment or termination of these conditions, Respondent may petition the Board in writing. The Board may inquire into the request and may, in its sole discretion, grant or deny the petition without further appeal or review. Petitions for modifying or terminating may be filed only once a year thereafter.

RESPONDENT WAIVES ANY FURTHER HEARINGS OR APPEALS TO THE BOARD OR TO ANY COURT IN REGARD TO ALL TERMS AND CONDITIONS OF THIS AGREED ORDER. RESPONDENT AGREES THAT THIS IS A FINAL ORDER.

THIS ORDER IS A PUBLIC RECORD.

I, DAVID ERIN BURNS, M.D., HAVE READ AND UNDERSTAND THE FOREGOING AGREED ORDER. I UNDERSTAND THAT BY SIGNING, I WAIVE CERTAIN RIGHTS. I SIGN IT VOLUNTARILY. I UNDERSTAND THIS AGREED ORDER CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN OR OTHERWISE.

DATED: January 20, 2005.

David Erin Burns
David Erin Burns, M.D.
Respondent

STATE OF TEXAS

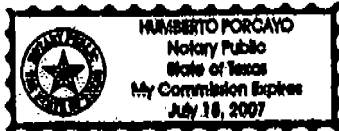
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COUNTY OF HARRIS

SWORN TO AND ACKNOWLEDGED BEFORE ME, the undersigned Notary Public, on this
20th day of January, 2005.

X [Signature]

(Notary Seal)



[Signature]
Signature of Notary Public

Humberto Porcayo
Printed or typed name of Notary Public
My commission expires:
July 18, 2007

SIGNED AND ENTERED by the presiding officer of the Texas State Board of Medical
Examiners on this 4 day of February, 2005.

[Signature]
Lee S. Anderson, M.D., President
Texas State Board of Medical Examiners

STATE OF TEXAS
COUNTY OF TRAVIS

I, Rita Perkins, certify that I am an official assistant
custodian of records for the Texas State Board of
Medical Examiners, and that this is a true and correct
Copy of the original, as it appears on file in this office.

Witness my official hand and seal of the Board, this
29 day of March, 2005

Rita Perkins
Rita Perkins
Public Information